



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

OCT 26 2016

CERTIFIED MAIL 7015 1730 0001 8044 3453  
RETURN RECEIPT REQUESTED

Mr. Allen Spann  
Plant Manager  
R-Squared-Puckett, Inc.  
6422 Highway 18  
Puckett, Mississippi 39151

Re: Administrative Compliance Order on Consent CWA-04-2016-4750  
R-Squared-Puckett, Inc., Puckett, Mississippi  
NPDES Permit No.: MS0055590

Dear Mr. Spann:

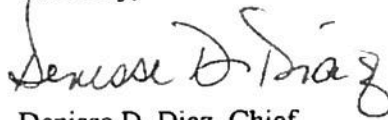
Pursuant to Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a), as amended, the Director of the Water Protection Division, United States Environmental Protection Agency, Region 4, has determined that the above named facility is in violation of Section 301, 307(d) and 402 of the CWA, 33 U.S.C. §§ 1311, 1317(d) and 1342. As a result, the Director has issued the enclosed Administrative Order on Consent (AOC).

This AOC does not replace, modify or eliminate any other requirements of the CWA or National Pollutant Discharge Elimination System (NPDES) permit. Notwithstanding the issuance of this AOC, the EPA retains the right to bring further enforcement action under Sections 309(d) or 309(g) of the CWA, 33 U.S.C. §§ 1319(d) or 1319(g), for the violations cited therein or for any other violation of the CWA. Violations of the CWA, including requirements contained in a NPDES permit or an AOC issued under Section 309(a) of the CWA, remain subject to a civil penalty of up to \$37,500 per day for each violation, pursuant to Sections 309(d) or 309(g) of the CWA, 33 U.S.C. §§ 1319(d) or 1319(g), as amended by the *Civil Monetary Penalty Inflation Adjustment Rule*, 73 *Fed. Reg.* 75340 (December 11, 2008). Such violations may also be subject to criminal penalties pursuant to Section 309(c) of the CWA.



If you or your client has any comments or questions regarding this matter, please contact Ms. Wilda Cobb, Associate Regional Counsel at (404) 562-9530 or contact Ms. Alenda Johnson, Enforcement Officer, at (404) 562-9761.

Sincerely,

A handwritten signature in black ink, appearing to read "Denisse D. Diaz". The signature is fluid and cursive, with the first name "Denisse" and last name "Diaz" clearly distinguishable.

Denisse D. Diaz, Chief  
NPDES Permitting and Enforcement Branch  
Water Protection Division

Enclosure

cc: Mr. Chris Sanders  
Mississippi Department of Environmental Quality



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4**

**IN THE MATTER OF:**

**R-Squared-Puckett, Inc.**  
6422 Highway 18  
Puckett, Mississippi

**PROCEEDING UNDER SECTIONS  
308 and 309(a) OF THE CLEAN WATER ACT )  
33 U.S.C. § 1319(a) )**

) **ADMINISTRATIVE COMPLIANCE  
) ORDER ON CONSENT**

) **DOCKET NO. CWA-04-2016-4750**

**ADMINISTRATIVE COMPLIANCE ORDER ON CONSENT**

**I. STATUTORY AUTHORITY**

1. Section 309(a) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(a), provides that, whenever the U.S. Environmental Protection Agency ("EPA") finds that any person is in violation of any condition or limitation which implements, inter alia, Sections 301, 307 and 402 of the CWA, 33 U.S.C. §§ 1311, 1317 and 1342, the EPA may issue an order requiring such person to comply with such condition or limitation, and shall specify a time for compliance that the EPA determines to be reasonable.

2. Section 308 of the CWA, U.S.C. § 1318, provides that the EPA may, whenever required to carry out the objectives of the CWA, require an owner and/or operator of any point source to provide the necessary information for determining compliance with the CWA.

3. The following Findings of Fact and Determinations of Law are made and this Administrative Compliance Order on Consent ("AOC") issued pursuant to the authority vested in the EPA by Sections 308 and 309(a) of the CWA, 33 U.S.C. § 1319(a), as amended. This authority has been delegated to the Regional Administrator of the EPA, Region 4, and further delegated by the Regional Administrator to the Director of the Water Protection Division, EPA, Region 4.

**II. EPA's FINDINGS OF FACT AND DETERMINATIONS OF LAW**

4. R-Squared-Puckett, Inc. ("Respondent") is a corporation formed under the laws of the State of Mississippi and is a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5), and regulations at Section 49-17-1 et seq., Mississippi Code of 1972.

5. At all times relevant to this action Respondent owned and/or operated the R-Squared-Puckett, Inc. facility (the "Facility") located at 6422 Highway 18, Puckett, Rankin County, Mississippi.





6. Respondent assembles aluminum cooling coils and aluminum manifolds for use in residential and commercial air conditioning systems. The cooling coils are assembled and coated with flux, baked in an oven and washed. The aluminum manifolds are assembled and braised with a propane torch. Water used in cleaning and cooling process are discharged to Respondent's wastewater treatment plant ("WWTP") for treatment.

7. Respondent's Standard Industrial Classification ("SIC") code is 3585- air conditioning & air heating equipment & commercial industrial refrigeration equipment.

8. To accomplish the objective of the CWA, as defined in Section 101(a) of the CWA, 33 U.S.C. § 1251(a), to restore and maintain the chemical, physical and biological integrity of the nation's waters, Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants by any person into navigable waters of the United States except as in compliance with Section 307 of the CWA, 33 U.S.C. § 1317.

9. Pursuant to Section 307 of the CWA, 33 U.S.C. § 1317, the EPA has established standards that govern discharges into publicly owned treatment works ("POTWs") that discharge to navigable waters. The General Pretreatment Regulations, found at 40 C.F.R. Part 403, are designed to ensure that each POTW can comply with its National Pollution Discharge Elimination System ("NPDES") permit.

10. The EPA has also promulgated pretreatment standards for specified categories of industrial users pursuant to Section 307(b) of the CWA. These categories of industrial users, or "categorical" industrial users, are subject to specific pretreatment requirements set forth at 40 C.F.R. Parts 405-471 and Section 49-17-1 et. Seq., Mississippi Code of 1972.

11. Pursuant to 40 C.F.R. § 403.3(j) the term Industrial User or User means a source of Indirect Discharge.

12. Pursuant to 40 C.F.R. § 403.3(i) the term Indirect Discharge or Discharge means the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Act.

13. Pursuant to 40 C.F.R. Part 433 the metal finishing industry is one of the specified industries subject to categorical pretreatment standards. These categorical pretreatment standards apply to facilities that perform any of the following six metal finishing operations on any basis material: electroplating, electroless plating, anodizing, coating (chromating, phosphating, and coloring), chemical etching and milling, and printed circuit board manufacture.

14. Pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b), a state may establish its own pretreatment program by receiving authorization of the program by the Administrator of the EPA.

15. The Mississippi Department of Environmental Quality ("MDEQ") is the state agency with the authority to administer the Pretreatment Program in Mississippi pursuant to 33 U.S.C. § 1342(b), implementing regulations, and a Memorandum of Agreement dated, March 18, 2008. As such, MDEQ is the Approval Authority as defined by 40 C.F.R. § 403.3(c).





16. Pursuant to 40 C.F.R. § 403.10(e), MDEQ has also assumed responsibility for implementing the Pretreatment Program in Mississippi in lieu of requiring POTWs to develop independent pretreatment programs. As such, MDEQ is the Control Authority as defined by 40 C.F.R. § 403.3(f), and responsible for the requirements in 40 C.F.R. § 403.8(f).

17. The Respondent discharges wastewater from its internal WWTP which contains "pollutants" subject to "pretreatment standards" and "prohibitions" within the meaning of Sections 307(b), (c) and (d) of the CWA, 33 U.S.C. § 1317(b), (c) and (d), to the Town of Puckett Wastewater Treatment Plant (Puckett POTW).

18. The Town of Puckett operates its POTW under NPDES permit No. MS0055590, effective January 15, 2013, and expiring December 31, 2017.

19. MDEQ issued the Respondent a *Permit to Operate Waste Disposal System in Accordance with National and State Pretreatment Standards* permit No. MSP090525 ("Permit") with an effective date of July 1, 2011, and with an expiration date of June 30, 2016. The Permit allows the Respondent to discharge treated process wastewater to the Puckett POTW.

20. Pursuant to 40 C.F.R. § 403.6, categorical standards are in addition to all other applicable pretreatment standards.

21. Respondent is an industrial user and its process includes metal parts cleaning, coating and contact cooling water of aluminum parts.

22. Respondent is subject to the general pretreatment standards and the categorical pretreatment standards. See 40 C.F.R. §§ 403.6 and 433.10, and regulations at Section 49-17-1 et seq., Mississippi Code of 1972, et al.

23. Pursuant to 40 C.F.R. § 403.3(v)(1)(i), "significant industrial users" include all industrial users subject to categorical pretreatment standards.

24. Pursuant to 40 C.F.R. § 403.10, an industrial user holding a permit containing pretreatment standards and requirements must comply with its permit.

25. Pursuant to Condition T-15, of the Permit, the Permittee shall at all times properly operate, maintain, and when necessary, promptly replace all facilities and systems of collection, treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. Proper replacement includes maintaining an adequate inventory of replacement equipment and parts for prompt replacement when necessary to maintain continuous collection and treatment of wastewater.

26. Pursuant to Condition T-16 of the Permit, samples and measurements taken as required herein shall be representative of the volume and nature of the monitored wastewater. Permit limits Table 1 requires the sample collection method be composited from a 24-hour flow auto sampler.



27. Pursuant to the Table 1 of the Permit, effluent flow is to be continuously monitored using a totalizer device.

28. Pursuant to Condition T-20 of the Permit, test procedures for the analysis of pollutants shall include those set forth in 40 C.F.R. Part 136.

29. Pursuant to 40 C.F.R. § 136, samples shall be collected in clean, approved sample containers. See also Standard Method 1060- Collection and Preservation of Samples, sections 1060A- Introduction and 10608- Collection of Samples.

30. Pursuant to 40 C.F.R. § 136.3 Table II footnote 2 each grab sample must be preserved within 15 minutes of collection. For a composite sample collected with an automated sample device (e.g., using a 24-hour composite sample), the sample must be refrigerated at  $\leq 6^{\circ}\text{C}$  during collection.

31. Pursuant to 40 C.F.R. § 136.3 Table II requires samples for oil and grease to be collected into a wide-mouth glass jar and there is no allowance for transferring the sample to another container.

32. Pursuant to 40 C.F.R. Part 136, proper equipment calibration as referred to in Standard Method® 4500+H for pH analysis, requires the use of at least two standardized pH buffers to allow a slope calculation to verify that the probe's electrode is functioning properly.

33. Pursuant to Condition R-1 of the Permit, for each measurement or sample taken pursuant to the requirements of the Permit, the Permittee shall maintain records of all information obtained from such monitoring event including:

- a. Exact place, date, and time of sampling;
- b. The dates the analyses were performed;
- c. The person(s) who performed the analyses;
- d. The analytical techniques, procedures or methods used, and
- e. The results of all required analyses.

34. Pursuant to Condition T-21 of the Permit, all records and results of monitoring activities required by the Permit, including calibration and maintenance records, shall be retained by the permittee for a minimum of three (3) years, unless otherwise required or extended by the Permit Board, copies of which shall be furnished to the Department upon request.

35. Pursuant to Condition T-24 of the Permit, any facility expansion, production increases, process modifications, changes in discharge volume or location or other changes in operations or conditions of the Permittee which may result in a new or increased discharge of waste, shall be reported to the Permit Board by submission of a new application for a permit pursuant to Chapter One, Section II.A. of the Mississippi Wastewater Regulations, or if the discharge does not violate effluent limitations specified in the permit, by submitting to the Permit Board a notice of new or increased discharge.





36. Noncompliance with any pretreatment standard, prohibition or effluent standard is a violation of the Section 307 of the CWA, 33 U.S.C. § 1317.

37. In states authorized to implement their own pretreatment programs, the EPA retains authority concurrent with the authorized state pretreatment program to enforce state-issued permits, pursuant to Sections 309(a)(3) and 402(i) of the CWA, 33 U.S.C. §§ 1319(a)(3) and 1342(i).

38. On April 22 and 23, 2014, the U.S. Environmental Protection Agency's National Enforcement Investigations Center ("NEIC") and Region 4, EPA conducted a CWA compliance investigation of the Facility to evaluate Respondent's compliance with the requirements of: Sections 301, 307 and 402 of the CWA, 33 U.S.C. §§ 1311, 1317 and 1342; the regulations promulgated thereunder at 40 C.F.R. Parts 403 and 433; Section 49-17-1 et. Seq., Mississippi Code of 1972; and Respondent's Pretreatment Permit.

39. As a result of the inspections of April 22 and 23, 2014, the EPA identified the following violations of the Permit, and the pretreatment standards and requirements, as defined by 40 C.F.R. §§ 403.3(l) and 403.3(t):

(i) The Respondent's procedures for operating the onsite WWTP did not reflect actual operations. Several process units described for the WWTP were not being operated, or were removed from service; these include the pH adjustment tank (T-6) and clarifier tank #2 in violation of Condition T-15 of the Permit.

(ii) Several components were added to the facility's system(s) that were not in the original permit application. These added components include three wastewater storage tanks and a stormwater storage tank. There were also observed several "out of service" treatment tank mixers; there was no available return to service schedule for the mixers as required by Condition T-15 of the Permit.

(iii) The Respondent is incorrectly collecting grab samples to manually composite. For other parameters, composite-effluent samples are being collected using a severely damaged Isco® automatic sampler. Because the equipment is so severely damaged, samples are not being properly refrigerated in violation of Condition T-20 of the Permit and 40 C.F.R. § 136.3 Table II footnote 2.

(iv) There were no records documenting that the [24-hour] composite samples were monitored for temperature or maintained at <6 °C during the sample compositing period as required by Condition T-20 of the Permit and 40 C.F.R. § 136.3 Table II footnote 2.

(v) Samples collected for the Oil & Grease parameter of the Permit are being improperly collected in a generic-glass jar and are then being transferred into the lab-supplied sample container in violation of Condition T-20 of the Permit and 40 C.F.R. § 136.3 Table II.





(vi) The Respondent is not correctly calibrating pH instrumentation being used to conduct compliance sampling as required by Condition T-20 of the Permit and 40 C.F.R. Part 136.

(vii) The Respondent uses an inline, mechanical, analog flow meter, which displays the instantaneous flow rate and the total flow volume through the system, up to a point in the pipe, however, the discharge pipe has no primary flow device, such as a weir or Parshall flume which can be used to determine the total flow volume of all discharges to the POTW. Therefore, effluent flow cannot be accurately reported in violation of condition of Table 1 of the Permit, T-20 of the Permit, and 40 C.F.R. Part 136.

(viii) The Respondent did not report weekly pH effluent data on the discharge monitoring reports ("DMR") from July 2011 through March 2014 as required by the permit limits table for Outfall 001.

(ix) The Respondent did not retain the initial pH monitoring records from July 2011 through March 2014 for the minimum three year period as required by Condition T-21 of the Permit.

(x) Other records and results of monitoring activities including calibration and maintenance activities as required by the Permit, were not documented or retained by the Respondent for the time between July 2011 through March 2014 as required by Condition T-21 of the Permit.

(xi) The Chain of Custody report(s) indicated there was either no pH analysis reported, and/or the results recorded do not match DMR data reported for pH from July 2011 through March 2014 in violation of Condition R-1 of the Permit.

(xii) At the time of the inspection the Respondent's processes had changed and they now manufacture different components than were described in their original application submitted to MDEQ for a Pretreatment program permit. The Respondent did not notify MDEQ about these process changes when they occurred, and had not requested a new or modified permit from MDEQ in violation of Condition T-24 of the Permit.

40. On May 7, 2015, EPA sent a Notice of Violation letter to the Respondent regarding the above violations.

41. On June 18, 2015, a Show Cause meeting was held by telephone between Mr. Allen Spann for R-Squared Puckett, Inc., EPA Attorney Wilda Cobb, and Enforcement Inspector Ms. Pamala Myers.

42. During the Show Cause Meeting Mr. Spann advised the EPA that the Facility had changed its production process and it no longer discharged any wastewater to the POTW and that the Facility had requested MDEQ to modify its Permit.



43. On June 21, 2015, the MDEQ sent a letter to the Respondent informing the Facility that a pretreatment permit was no longer required and that the Facility's Permit was revoked.

44. Based on the Compliance Inspection and EPA's review of information provided by the Respondent, the EPA alleges that Respondent has violated Sections 301, 307 and 402 of the CWA, 33 U.S.C. §§ 1311, 1317 and 1342, by failing to comply with the conditions of the Respondent's Permit, that was in place at the time of the NEIC Inspection, as set forth above.

### **III. ORDER**

45. Based on the foregoing Findings of Fact and Determinations of Law and pursuant to the authority of Sections 308 and 309(a) of the CWA, 33 U.S.C. §§1318 and 1319(a), THE DIRECTOR HEREBY ORDERS AND RESPONDENT HEREBY AGREES AND CONSENTS TO THE PROVISIONS OF THE PARAGRAPHS BELOW:

46. Respondent shall provide a current schematic of the Facility property identifying the physical boundaries, the individual operation areas and the process wastewater sources within each production area.

47. Respondent shall provide a narrative describing the functions of each operation area and the processes within them that generate wastewaters.

48. Respondent shall provide a separate schematic identifying the pathway(s) of process wastewaters, the pathway(s) of non-process wastewaters, any in-line valves/storage/appurtenances and any points of combining flows, beginning from the source(s) of the flow to the termination points at public sewers or other locations. Include a flow balance on this schematic identifying the current average daily flow rates of process wastewater and non-process wastewater during production. Identify the flow rate at each originating source, prior to each point of combining flows, and at each point of flow termination or storage. Identify the originating processes for the flows, the means of disposal at the termination points, the capacity and utilization of any storage, the flow rates in gallons per day, and whether each flow rate is measured or estimated.

49. Respondent shall submit certification that the Facility does not meet the definition of a "significant industrial user" set forth at 40 C.F.R. § 403.3(v)(1)(i). The certification shall be signed by a responsible corporate officer of the R Squared Puckett, Inc., as defined by 40 C.F.R. 403.12(1)(1), and shall include the following statement:

"I certify under the penalty of law that the Facility located at 6422 Highway 18, Puckett, Rankin County, Mississippi, has a production process that does not meet the definition of a "significant industrial user" at 40 C.F.R. § 403.3(v)(1)(i). This determination was made under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, this determination that the Facility's discharges to the POTW do not qualify the Facility as a "significant industrial user" as defined at 40 C.F.R. § 403.3(v)(1)(i), to the best of my knowledge and belief, is true, accurate, and complete. I am aware that there are





significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

50. All reports, notifications, documentation and submittals required by this Order shall be sent by certified mail or its equivalent to both the following addresses:

Ms. Denisse Diaz, Chief  
NPDES Permitting & Enforcement Branch  
Water Protection Division  
ATTN: Alenda Johnson  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center, 61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

Mr. Chris Sanders, Chief  
Environmental Compliance & Enforcement Division  
Mississippi Department of Environmental Quality  
P.O. Box 2261  
Jackson, Mississippi 39225

#### **IV. GENERAL PROVISIONS**

51. The Respondent’s compliance with this AOC does not necessarily constitute compliance with the provisions of the CWA, 33 U.S.C. § 1251 et seq., or its implementing regulations. The Respondent shall remain solely responsible for compliance with the terms of the CWA, its implementing regulations, and this AOC.

52. Failure to comply with the requirements herein shall constitute a violation of this AOC and the CWA, and may subject Respondent to penalties as provided in Sections 309(b) and 309 (d) of the CWA, 33 U.S.C. §§ 1319(b) and (d).

53. This AOC shall not relieve the Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any other federal, state, or local permit. Compliance with this AOC shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by the EPA.

54. Issuance of this AOC shall not be deemed as prohibiting, altering, or in any way limiting the ability of the EPA to pursue any other enforcement actions available to it under law. Such actions may include, without limitation, any administrative, civil, or criminal action to seek penalties, fines, injunctive, or other appropriate relief, or to initiate an action for imminent and substantial endangerment under the CWA or any other federal or state statute, regulation, or permit.

55. The EPA reserves all rights and remedies, legal and equitable, available to enforce any violation cited in this AOC and to enforce this AOC.





56. Nothing in this AOC is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent, or other liability resulting from violations that were not alleged in this AOC.

57. This AOC applies to and is binding upon Respondent and its officers, directors, employees, agents, successors, and assigns.

58. Any change in the legal status of Respondent, including but not limited to any transfer of assets of real or personal property, shall not alter Respondent's responsibilities under this AOC.

59. The Respondent does not admit any liability arising out of the transactions or occurrences alleged in this AOC.

60. The Respondent waives any and all claims for relief and otherwise available rights or remedies to judicial or administrative review which the Respondent may have with respect to any issue of fact or law set forth in this AOC, including, but not limited to any right of judicial review of the AOC under the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

61. Each party shall bear its own costs and attorney's fees in connection with the action resolved by this AOC.

62. Pursuant to Section 309(a)(4) of the CWA, 33 U.S.C. § 1319(a)(4), the EPA has sent a copy of this AOC to the State of Mississippi.

63. Each undersigned representative of the parties to this AOC certifies that he or she is fully authorized to enter into the terms and conditions of this AOC and to execute and legally bind that party to it.

#### **V. EFFECTIVE DATE**

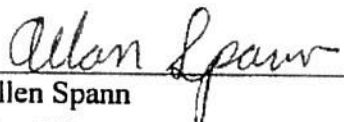
64. This AOC shall become effective upon receipt by the Respondent of a copy of the fully executed AOC.



DOCKET NO. CWA-04-2016-4750

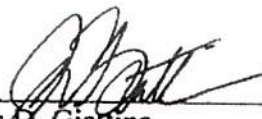
**IT IS SO AGREED,**

**By Respondent, Representing R-Squared-Puckett, Inc.:**

  
\_\_\_\_\_  
Allen Spann  
Plant Manager  
R-Squared-Puckett, Inc.

Date: 8-18-16

**BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 4:**

  
\_\_\_\_\_  
James D. Giattina  
Director  
Water Protection Division

Date: 10/25/16

